



SECURITIES AND EXCHANGE COMMISSION
[SEC File No. 270-188, OMB Control No. 3235-0212]

Submission for OMB Review; Comment Request; Extension: Rule 12b-1

Upon Written Request, Copies Available From:
Securities and Exchange Commission
Office of FOIA Services
100 F Street, NE,
Washington, DC 20549-2736

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (the “Commission”) has submitted to the Office of Management and Budget (“OMB”) a request for extension of the previously approved collection of information discussed below.

Rule 12b-1 under the Investment Company Act of 1940 (17 CFR 270.12b-1) permits a registered open-end investment company (“fund”) to bear expenses associated with the distribution of its shares, provided that the fund complies with certain requirements, including, among other things, that it adopt a written plan (“rule 12b-1 plan”) and that it preserves in writing any agreements relating to the rule 12b-1 plan. The rule in part requires that (i) the adoption or material amendment of a rule 12b-1 plan be approved by the fund’s directors, including its independent directors, and, in certain circumstances, its shareholders; (ii) the board review quarterly reports of amounts spent under the rule 12b-1 plan; and (iii) the board, including the independent directors, consider continuation of the rule 12b-1 plan and any related agreements at least annually. Rule 12b-1 also requires funds relying on the rule to preserve for six years, the first two years in an easily accessible place, copies of the rule 12b-1 plan and any related agreements and reports, as well as minutes of board meetings that describe the factors considered and the basis for adopting or continuing a rule 12b-1 plan.

Rule 12b-1 also prohibits funds from paying for distribution of fund shares with brokerage commissions on their portfolio transactions. The rule requires funds that use broker-dealers that sell their shares to also execute their portfolio securities transactions, to implement

policies and procedures reasonably designed to prevent: (i) the persons responsible for selecting broker-dealers to effect transactions in fund portfolio securities from taking into account broker-dealers' promotional or sales efforts when making those decisions; and (ii) a fund, its adviser, or its principal underwriter, from entering into any agreement under which the fund directs brokerage transactions or revenue generated by those transactions to a broker-dealer to pay for distribution of the fund's (or any other fund's) shares.

The board and shareholder approval requirements of rule 12b-1 are designed to ensure that fund shareholders and directors receive adequate information to evaluate and approve a rule 12b-1 plan and, thus, are necessary for investor protection. The requirement of quarterly reporting to the board is designed to ensure that the rule 12b-1 plan continues to benefit the fund and its shareholders. The recordkeeping requirements of the rule are necessary to enable Commission staff to oversee compliance with the rule. The requirement that funds or their advisers implement, and fund boards approve, policies and procedures in order to prevent persons charged with allocating fund brokerage from taking distribution efforts into account is designed to ensure that funds' selection of brokers to effect portfolio securities transactions is not influenced by considerations about the sale of fund shares.

Commission staff estimates that there are approximately 6,358 funds (for purposes of this estimate, registered open-end investment companies or series thereof) that have at least one share class subject to a rule 12b-1 plan and approximately 454 fund families with common boards of directors that have at least one fund with a 12b-1 plan. The Commission further estimates that the annual hour burden for complying with the rule is 425 hours for each fund family with a portfolio that has a rule 12b-1 plan. We therefore estimate that the total hourly burden per year for all funds to comply with current information collection requirements under rule 12b-1 is 192,950 hours. Commission staff estimates that approximately three funds per year prepare a proxy in connection with the adoption or material amendment of a rule 12b-1 plan. The staff

further estimates that the cost of each fund's proxy is \$30,000. Thus, the total annual cost burden of rule 12b-1 to the fund industry is \$90,000.

Estimates of average burden hours and costs are made solely for purposes of the Paperwork Reduction Act and are not derived from a comprehensive or even representative survey or study of the costs of Commission rules and forms. The collections of information required by rule 12b-1 are necessary to obtain the benefits of the rule. Notices to the Commission will not be kept confidential. An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The public may view background documentation for this information collection at the following website: www.reginfo.gov. Find this particular information collection by selecting "Currently under 30-day Review - Open for Public Comments" or by using the search function. Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice by [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

to (i) MBX.OMB.OIRA.SEC_desk_officer@omb.eop.gov and (ii) David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o John Pezzullo , 100 F Street, NE, Washington, DC 20549, or by sending an email to: PRA_Mailbox@sec.gov .

Dated: May 16, 2022.

J. Matthew DeLesDernier,
Assistant Secretary.